

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GARY ZIERKE,

Defendant.

4:08-CR-3067

ORDER

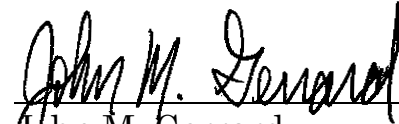
The defendant has filed to reduce his sentence based on purported amendments to the United States Sentencing Guidelines. [Filing 454](#). Specifically, he asserts that on May 5 the Sentencing Commission "voted and approved that no longer can State and Federal Prior Sentence or Conviction be used to calculate an inmate's sentence." [Filing 454 at 1](#). Effectively, the defendant claims that criminal history should no longer be considered by sentencing courts. *See id.*

No such proposed amendment exists. *See* Notice of Submission to Congress of Amendments to the Sentencing Guidelines Effective November 1, 2025, and Request for Comment, 90 Fed. Reg. 19798 (May 9, 2025). Nor, had such an amendment been proposed, would it have taken effect. *See* 28 U.S.C. § 994(p). Nor, had such an amendment been permitted to take effect, *see id.*, has it been made retroactive. *See* § 994(u); 18 U.S.C. § 3582(c)(2); U.S.S.G. § 1B1.10(d). Nor does the Commission appear to be considering retroactive application of *any* amendments relevant to the defendant's sentence. *Compare* Notice of Submission, 90 Fed. Reg. at 19856, *with* [filing 144](#). Accordingly,

IT IS ORDERED that the defendant's motion for a sentence reduction ([filing 454](#)) is denied.

Dated this 19th day of May, 2025.

BY THE COURT:

A handwritten signature in black ink, appearing to read "John M. Gerrard", is written over a horizontal line.

John M. Gerrard
Senior United States District Judge